

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

) CASE NO: 22-33553
)
)
) Houston, Texas
)
) Debtor.) Wednesday, Sept. 11, 2024
)
) 12:00 PM to 12:25 PM
)
) -----)
) HESLIN, et al.,) CASE NO: 23-03035
) ADVERSARY
)
) Plaintiffs,)
) Vs.)
) JONES, et al.,)
)
) Defendants.)
) -----)
) WHEELER, et al.,) CASE NO: 23-03037
) ADVERSARY
)
) Plaintiffs,)
) Vs.)
) JONES, et al.,)
)
) Defendants.)
) -----)

STATUS CONFERENCE

BEFORE THE HONORABLE CHRISTOPHER M. LOPEZ
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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1 HOUSTON, TEXAS; WEDNESDAY, SEPTEMBER 11, 2024; 12:00 PM

2 (Call to Order)

3 CLERK: All rise.

4 AUTOMATED VOICE: Conference muted.

5 THE COURT: Okay. Good afternoon, everyone. This
6 is Judge Lopez, today is September the 11th. I'm going to
7 call Case Number 22-33553, the Alex Jones case here on a
8 status conference. I hope everyone's doing okay, it's been
9 a while since we've all seen each other. I'll take
10 appearances in the courtroom and then I'll open it up to
11 folks who wish to make an appearance on the line, just
12 please hit five star. Good afternoon.

13 MR. MURRAY: Good afternoon, Judge. Chris Murray,
14 I'm the Chapter 7 trustee.

15 THE COURT: Good afternoon.

16 MS. JONES: Good afternoon, Your Honor, Erin Jones
17 for Christopher Murray, Chapter 7 trustee.

18 THE COURT: Good afternoon.

19 MR. WOLFSHOHL: Good afternoon, Your Honor.
20 Joshua Wolfshohl from Porter Hedges on behalf of Chris
21 Murray, Chapter 7 trustee.

22 THE COURT: Good afternoon.

23 MR. NGUYEN: Good afternoon, Your Honor. Ha
24 Nguyen for the US Trustee.

25 THE COURT: Good afternoon.

1 MS. CATMULL: Good afternoon, Your Honor. Annie
2 Catmull for here for O'Conner Wechsler.

3 THE COURT: Good afternoon. Okay, anyone on the
4 line who wish to make an appearance, please hit five star.
5 There's a 918 number.

6 MR. MCCULLEN: Yes, Your Honor, this is Derek
7 McCullen on behalf of the Debtor, Alex Jones.

8 THE COURT: Okay, good afternoon, sir. So, 212
9 number.

10 MR. KIMPLER: Good afternoon, Your Honor. It's
11 Kyle Kimpler from Paul White on behalf of the Connecticut
12 Families. With me today is my co-counsel Ryan Chapple and
13 Alinor Sterling.

14 THE COURT: Okay, good afternoon. And a 713
15 number.

16 MR. MOSHENBERG: Good afternoon, Judge. It's Avi
17 Moshenberg here on behalf of the Texas Plaintiffs.

18 THE COURT: Good afternoon. Anyone else wish to
19 make an appearance? Okay. The purpose of today is just we
20 haven't seen each other in a while. I thought it made sense
21 to get together. I know I checked the docket, and it sounds
22 like there was some orders entered by Judge Eskridge in the
23 -- that's the underlying adversary proceeding that was went
24 before the district court at some point.

25 And I thought maybe we could at least just talk

1 about the Jones case itself and kind of what's going on and
2 where things are going, and if you needed anything.

3 MR. MURRAY: Sure. So, at the most urgent level
4 we filed and we're hoping to get it set before Friday a
5 motion to sell the lake house. The time urgency there is
6 that the buyer is in a unique situation, they apparently
7 have to identify the target property for a 10/31 exchange.
8 Their deadline to do that is Friday. We're hoping to get
9 approval for a sale so that they can designate our property,
10 and we can proceed with the process to sell to them. We
11 filed that last night.

12 THE COURT: Okay. Oh, since I know most of the
13 folks who are involved in that case are here, is there is
14 any objection? If anyone has any objection about it that
15 someone, please let me know and I'm certainly without
16 everyone's rights. What else is going on just generally in
17 the case?

18 MR. MURRAY: So, we also have a pending motion
19 that set for hearing on the 24th of September and that is a
20 motion for authority for me as Chapter 7 trustee in the
21 Jones case to wind down assets of FSS.

22 THE COURT: Okay.

23 MR. MURRAY: And that is a liquidation process.
24 We have also filed a motion to retain Transon Advisors as
25 our auctioneer and they've started work preparing the

1 marketing materials. And the idea there is to auction the
2 assets of FSS.

3 Now, there are disputing claims on those assets as
4 the Chapter 7 estate owns 100 percent of the entity,
5 certainly the entity is insolvent from a balance sheet
6 perspective because of the judgments against it, but you
7 also have PQPR asserting a lien on all the assets. Our idea
8 it to liquidate the assets of FSS, but all of the proceeds,
9 net of the cost of the liquidation, would be kept pending
10 further court order so that we can punt on all those other
11 issues.

12 We're talking to all the parties. I think there's
13 at least a fair chance that we might be able to resolve some
14 of those issues short of litigation, but if we have to
15 litigate, we're going to hold everything until those
16 disputes are resolved.

17 THE COURT: Okay. Anything else going on just
18 generally? I -- just it's aside from the -- it sounds like
19 we're having a hearing -- we may have a hearing on Friday,
20 there's a potential hearing -- a hearing on the 24th. Just
21 generally, how are things going?

22 MR. MURRAY: So, another sort of general issue it
23 relates more to the FSS estate, but the professional fees
24 were approved there. There was an order to pay professional
25 fees. There was some cash of FSS that I've been holding as

1 the Chapter 7 trustee.

2 THE COURT: Yep, yep.

3 MR. MURRAY: I paid professional fees for all but
4 one professional who hasn't provided payment instructions
5 yet. I paid those out of those funds. What was interesting
6 to me all of the professionals so far have requested that
7 those payments not go to operating, they go to IOLTA
8 accounts.

9 And the concern that's been raised is those are
10 still FSS cash or at least proceeds of FSS cash arguably
11 under the aegis of the turnover order. Now, Your Honor may
12 recall the -- a turnover order was issued in state court,
13 there was also a garnishment action filed. Both of those
14 were removed to the bankruptcy court in the western
15 district. They have now been consolidated in front of Judge
16 Bradley.

17 THE COURT: Oh, interesting.

18 MR. MURRAY: There is a pending motion from the
19 Plaintiffs to remand those actions down to state court. My
20 concern is those orders, and those actions bear directly on
21 the administration of these cases and the FSS matters you've
22 retained jurisdiction over.

23 So, our intention is in the near term to file a
24 motion to at least transfer venue of the removed actions to
25 this Court so, and I think the bankruptcy court supports

1 this, have all related matters heard in front of the same
2 court. We have not gotten consent from the Plaintiffs to
3 that motion, so that might be contested over in the western
4 district. But that's sort of where that stands.

5 And so, there's concern among the professionals
6 and some concern among other parties that until that
7 turnover order is -- and that garnishment proceeding are
8 finally resolved, there's a cloud over the authority of
9 what's going on in this Court with these matters.

10 THE COURT: Okay. I will -- I'll let the process
11 play out, but if you -- just keep me apprised of what
12 happens with the -- you say there's a motion to transfer.

13 MR. MURRAY: We haven't filed a motion to transfer
14 venue yet, but we intend to shortly. And there's a pending
15 motion to remand and obviously we'd like the venue issue to
16 be heard first. But that's -- that will take place before
17 the western district and before Judge Bradley.

18 THE COURT: Okay. I will -- I will -- keep me
19 informed about what's going on. And if I need to bring the
20 Texas Plaintiffs in here to explain to me what's going on,
21 I'll do it. But maybe I don't need to. Okay?

22 MR. MURRAY: All right.

23 MR. MOSHENBERG: And Your Honor I'm here.

24 THE COURT: Well, no, no, no. I mean, on a
25 separate matter for a -- but I want to respect the process,

1 that's not before me and I don't want to put my thumb on the
2 scale about anything. I just want to make sure that I stay
3 informed about what's going on and I don't want to put my
4 thumb on something. Judge Bradley has the case, and I think
5 he gets to make the call on those issues, and he decides and
6 whatever he decides, he decides. I don't have a say on it
7 one way or another, nor do I want to. So, --

8 MR. MOSHENBERG: That's fair, Judge.

9 THE COURT: Okay. So, let me -- what else can we
10 -- what else do we need?

11 MR. MURRAY: That's our status update.

12 THE COURT: Okay.

13 MR. MURRAY: If Your Honor has questions about any
14 other aspects, we're here --

15 THE COURT: No. No, no, I just wanted to make
16 sure we were all on the -- on kind of operating on the same
17 page and it's been a while since we had talked. I didn't
18 know if you needed any Court time. I know that that was
19 that one motion had been filed. Maybe I can just open it up
20 and just hear from the parties about potentially scheduling
21 a hearing on Friday about this matter. If we did it, I can
22 tell you now --

23 MR. MURRAY: Your Honor, is this on the sale
24 motion that we were talking about?

25 THE COURT: The potential for -- what I'll call

1 the Friday motion.

2 MR. MURRAY: The Friday motion. So, just so you
3 know I'm going to be in your Court at 11:30 on a motion to
4 sell in a Texas --

5 THE COURT: Yes.

6 MR. MURRAY: -- chemical (indiscernible). So, if
7 somewhere around that time period could --

8 THE COURT: How long do you think that will go?

9 MR. MURRAY: I think it will be a half an hour at
10 the most. I don't think it's going to be contested. I
11 think it's mostly just going to be Mr. Summers sort of
12 proffer testimony.

13 THE COURT: Got it. Let me just see -- why don't
14 we schedule it tentatively for noon on Friday. Subject to
15 anyone's rights to come in and tell me otherwise. So,
16 anyone else in the courtroom? Ms. Catmull.

17 MS. CATMULL: Thank you, Your Honor. Number one,
18 I'm working with Mr. Herold May in a different matter, he's
19 meditating it today, but he asked me to announce to the
20 Court that he, due to an error I think in the proposed order
21 on its fees, I think he's going to be asking, this is just
22 an FYI, he's going to be asking for some sort of amended
23 order that makes a \$23,000 difference. So, that's heading
24 his way.

25 And then, just on the -- we're one of the law

1 firms that's holding the funds in the IOLTA account. It --
2 we've been, it seems to me, that issue will play out. It --
3 I've been thinking it through in one of four procedural
4 ways. One may be the -- could -- well, one, obvious one,
5 would be stay litigation. Hopefully, it won't come to that.

6 Two, there is the Trustee's pending motion for
7 emergency relief that the Court took up a status conference
8 on in June. So, maybe it'll get cleared up then. Three, I
9 guess, if venue gets transferred here, the Court could
10 address it because the Court will have jurisdiction over the
11 turnover order.

12 And then, four, there is still the issue of the
13 Court's amended dismissal order that it discussed at the
14 hearing on the status conference on the Trustee's emergency
15 motion. So, I'm going to see how those play out and then
16 confer with all the parties in it.

17 THE COURT: The issue, and I don't want to kind of
18 belabor it, is I wrote an order and it -- so, it's got to
19 have -- so, the question is what affect does my order do and
20 did I just write an order that has no -- that no one can
21 enforce because there's concerns about what the order says?

22 So, did I just write an order in abstention and it
23 just kind just floats out there that no one can actually
24 use, right? Or I authorized the Trustee to write a check
25 and then someone else came in backdoor and get the cash.

1 Someone -- that's what I mean. But I'll let the process
2 play itself out.

3 MS. CATMULL: Yes.

4 THE COURT: I don't want to get in the way of it.
5 But thank you very much, but I don't want to wait really
6 long for that. But we'll take that up in due course.

7 MS. CATMULL: Thank you, Your Honor.

8 THE COURT: Thank you. Mr. Kimpler, can I just
9 ask you just with respect to the adversary proceedings. Is
10 there anything -- that's been certainly a while since we
11 talked about that. Is there anything in any of them that I
12 should kind of be aware of? Anything we need to do in those
13 cases? I don't know if there is, but if there is I don't
14 want it to get kind of lost in what we're doing.

15 MR. KIMPLER: There is, Your Honor. So, let me
16 just (indiscernible) because it has been a long time since
17 we talked about those. Your Honor, of course, ruled on the
18 summary judgment last October.

19 THE COURT: Wow.

20 MR. KIMPLER: You'll recall that you granted
21 summary judgment on the majority of the claims, denied
22 summary judgment on a portion of them. Following that
23 decision, Mr. Jones sought interlocutory appeal because the
24 order is not final because you have not fully resolved all
25 of the claims. That was briefed last year and as you

1 already alluded to Judge Eskridge held oral argument about
2 that I believe in late June of this year.

3 Judge Eskridge denied the interlocutory appeal, so
4 what he is saying is we do need to get a final order before
5 you before it can go up on appeal. So, where that leaves us
6 right now is that we do need to get to a resolution on
7 whether the -- in the Connecticut Plaintiff's case the 300
8 million or so of common law punitive damages are not -- or
9 are or are not dischargeable. What your order has done,
10 Your Honor, is just denied our motion for summary judgment
11 that they were dischargeable. I doubt you've looked at the
12 order itself, but if you look at the opinion that Judge
13 Eskridge wrote --

14 THE COURT: There's kind of a point in there that
15 he wanted me to make sure that I thought about and that was
16 going to be my question.

17 MR. KIMPLER: He did. So, there's a suggestion
18 about maybe we should take a second look at that.
19 Obviously, he's not prejudging that and I'm not either. But
20 one of two things does need to happen before Your Honor. We
21 either need to get a trial schedule going to get final
22 resolution on that piece or we can file a reconsideration
23 motion. Our plan is to file a Rule 54B reconsideration
24 motion. We probably will have that on file, if not, the end
25 of this week, the beginning of next week. It's a pretty

1 short motion, it lays out the issues it asks you to
2 reconsider.

3 In our view of the appropriate next steps here,
4 and we've had some discussions with Mr. Jone's counsel on
5 this. But our view of the appropriate next steps is let's
6 brief that issue, I don't think it takes a lot of briefing.
7 Again, I think our brief is probably 12 to 15 pages. I
8 think you could do it in about 30 days.

9 We'd ask you to take a second look at that. It
10 may be that you say I got it right the first time there's
11 nothing to reconsider, at which point we then need to start
12 thinking about trial steps to then take that claim to
13 conclusion. It may be that you take a second look at it,
14 think that maybe you can resolve it, in which case then we
15 have a final order and the whole thing can go back up to
16 Judge Eskridge.

17 THE COURT: Mr. Kimpler, I think I cut you off on
18 the part where you were actually telling me what the
19 specific issue was. Can you just identify it for me?

20 MR. KIMPLER: The specific -- yeah, so, there is
21 300 -- so, there's a \$1.4 billion collective judgment for
22 Connecticut Plaintiffs. Your order found that 1.1 billion
23 of that was nondischargeable.

24 THE COURT: Right.

25 MR. KIMPLER: There is 300 million of it that is

1 really attorney's fees, but it's the common law punitive
2 damages.

3 THE COURT: I remember.

4 MR. KIMPLER: And you found that because the jury
5 instructions there included an element of (indiscernible)
6 that you could not grant summary judgment. And not to get
7 too into the reasons but there is case law that just
8 suggests that those ancillary types of obligations follow
9 the underlying conduct. And so, --

10 THE COURT: Right.

11 MR. KIMPLER: -- in preview of what our
12 reconsideration motion will say is if you found the
13 underlying conduct to be willful and malicious, then
14 ancillary obligations such as attorney's fees, expenses are
15 also nondischargeable. So, that is what we would try to tee
16 up for you on a motion for reconsideration. Again, I don't
17 want to --

18 THE COURT: Got it. I got it.

19 MR. KIMPLER: -- project (indiscernible).

20 THE COURT: I remember.

21 MR. KIMPLER: But as far as next steps for you and
22 court time and things like that, it is our intent to file
23 that motion, again, it's a fairly brief motion, sometime in
24 the next week and then we'd be willing to agree to whatever
25 schedule works for Mr. Jones.

1 But we'd like to get that resolved soon so that we
2 can get a final order in this Court and then get up to the
3 next level of appeal as soon as possible. It may be that
4 that's not what happens, and we need to then start talking
5 about to resolve the issue, you know, a trial schedule or
6 something like that.

7 THE COURT: Understood. Thank you very much.
8 Thank you, thank you. Oh, okay, it'll -- yep, got it. Got
9 it. Mr. Moshenberg, is this -- in the Texas adversary is
10 there something we need to -- can you kind of tell me where
11 things stand there?

12 MR. MOSHENBERG: Yes, Your Honor, gladly. We're
13 in similar boats as Mr. Kimpler in terms of the motion to
14 reconsider, the way I understood at least the hearing. But
15 I think from the word (indiscernible) as well. More of the
16 issues we moved for summary judgment on was the total amount
17 being nondischargeable. The court took that there was also
18 a fact issue on that.

19 But one of the arguments we made, and we explained
20 it to Judge Eskridge is the court couldn't have awarded
21 punitive damages unless there was a finding of an
22 intentional (indiscernible) intentionally conflicting
23 emotional distress on someone with an actual intent to do
24 it. Because the only way to exceed Texas's punitive damages
25 cap is with an intent crime.

1 And the court's opinion talked about how we don't
2 know whether certain damages like punitive damages were
3 awarded out of recklessness or some lower standard that's
4 below a willful and malicious standard. And so, Judge
5 Eskridge, you know, the way I read (indiscernible) at least,
6 encouraged us to come to come to the Court and reconsider
7 that issue as well. Now, here's --

8 THE COURT: That the way that the constitution --
9 but that has the constitutional issue, right? That's this -
10 -

11 MR. MOSHENBERG: No, Your Honor, there is no
12 constitutional --

13 THE COURT: No, no. I thought there was a -- if I
14 remember correctly, wasn't there kind of a -- I do remember
15 this issue. Now, I remember what I did and why. In that
16 one I think there was. No, it may not be a constitutional
17 issue, but I remember there was a jury charge issue there
18 about the kind of what the jury -- I remember the issue.
19 Yep, let's tee the issues up. Let's do it that way.

20 MR. MOSHENBERG: Thank you, Your Honor.

21 THE COURT: And then, we can kind of proceed. I'm
22 glad we're having a conversation just to kind of get things
23 -- get things back on track. What I would ask -- and I'll
24 turn to Jones counsel, what I would ask Mr. Kimpler and Mr.
25 Moshenberg is once you get it -- your pleadings on file,

1 just let my case manager know just so I know it's on and the
2 clock is ticking and that there's going to be a response.
3 And then, I will -- and then, I can take it up. It would
4 just help me from a scheduling standpoint.

5 MR. KIMPLER: Sure, Your Honor.

6 MR. MOSHENBERG: Judge, I'm happy to do that. One
7 wrinkle I just want to be up front with the Court on this.
8 We, you know, as I've mentioned to the Court on the 14th
9 when we met in person, Your Honor, one of our goals in this
10 bankruptcy was to get closure for our client which we sort
11 of (indiscernible) where there's a payment that's fair and
12 Jones stops talking about Sandy Hook and we move on. My
13 clients get to move on at least. And I think that's a
14 little bit of a different goal than what Connecticut has,
15 Your Honor.

16 And in that vein, we've had very constructive
17 talks with Jone's counsel and I'm hoping that at least
18 there's some sort of resolution that we can, you know, tell
19 you about Your Honor. But the reason I bring all of that up
20 is I think in terms of the timeline of litigating in the
21 adversaries I'm not sure how much -- if we're going to get
22 to a deal, I don't want to burden Your Honor with a bunch of
23 filings and pleadings. So, I just want to describe that for
24 Your Honor right now because my hope is that this is all
25 moot and there's eventually a deal and closure for my

1 clients.

2 THE COURT: Thank you. And look if it -- if the
3 parties want to resolve, just let me know whatever you get
4 on file, just let me know. I just it's a little bit of a --
5 it would be super helpful for me because I think from a
6 tracking standpoint just so that were -- we stay on pace.
7 So, thank you. Anyone from Jone's counsel wish to address
8 the Court? Yeah.

9 MR. MCCULLEN: Yes, Your Honor, can you hear me?

10 THE COURT: Just fine.

11 MR. MCCULLEN: Darren McCullen.

12 THE COURT: Good -- yes, yes, good afternoon, sir.

13 MR. MCCULLEN: Good afternoon. I guess, first of
14 all, I just wanted to say that I think Ms. Driver is on the
15 line, she was telling me that she'd been trying to raise her
16 hand and couldn't get through.

17 THE COURT: Oh.

18 MR. MCCULLEN: So, I just wanted to --

19 THE COURT: No, I see her. I see her there, thank
20 you.

21 MR. MCCULLEN: So, I think she's going to let me
22 go first and then she might have something to say afterward.

23 THE COURT: All righty.

24 MR. MCCULLEN: Yes, I guess, starting with, you
25 know, what Mr. Kimpler, yeah, I mean, I think I would agree

1 with, you know, what he said, you know, with the status of
2 the case, what the, you know, the southern district said.
3 You know, we had been in talks about, you know, next steps.

4 They had, you know, they kind of told us that
5 maybe they were going to file a Rule 59B motion. It's
6 sounds like that's what they are going to do. It sounds
7 like that kind of what the Court wants them to do to get the
8 issues kind of lined out. You know, we -- I obviously we
9 disagree with the ancillary fee's argument. We'll address
10 that in briefing.

11 We think that, you know, it's a, you know, that
12 the courts, you know, did not grant -- denied summary
13 judgment on the common law punitives for a disjunctive jury
14 instruction which seems to be what they did that the court -
15 - we argue that the court should have done that with the,
16 you know, the defamation and IED claims. We'll address that
17 in the briefing if that's the way the Court wants to go.

18 And then, depending on, you know, what Your Honor
19 decides if there is still one claim of damages left then,
20 yeah, I guess, you know, we'll have to get a trial schedule
21 and move on with that from there.

22 THE COURT: Got it. Thank you. Thank you. Ms.
23 Driver.

24 MR. MCCULLEN: Thank you, Your Honor.

25 MS. DRIVER: Good afternoon, Your Honor. I was

1 almost -- I was almost wondering if you didn't want to hear
2 from me on this.

3 THE COURT: No.

4 MS. DRIVER: I just didn't want to make a fool out
5 of myself waving to you. Your Honor, Mr. McCullen is
6 absolutely handling the Connecticut matter, I don't have
7 anything else to say on that. And Mr. Moshenberg accurately
8 described what I think will need to happen in the Texas
9 adversary in the event we aren't able to finish off our
10 resolution.

11 But I agree with him, we're having productive
12 talks, and I think, you know, our issues for Mr. Jones and
13 what the Texas Plaintiffs are trying to here are going to
14 align in a way that we can resolve those issues, hopefully,
15 without any need for any further hearings in that particular
16 adversary or hopefully any of the Texas appeals and things
17 of that nature.

18 THE COURT: Okay. Is there anything -- so, it
19 sounds like there'll be a couple of motions filed in the
20 adversary proceedings and folks will let me know. We'll
21 come back on Friday, take up the emergency motion and then
22 come back a couple weeks later, I think the 24th, and take
23 up another motion there. So, anything else that anyone
24 wishes to -- and I guess, you'll keep me apprised as to kind
25 of other matters as they come up.

1 But okay, I'm -- let me just check and make sure I
2 didn't forget anyone else who hit five star. Okay, folks, I
3 think that's it. I just wanted to just make sure that we --
4 I turned my attention back and made sure that everyone was
5 getting what they needed and touching base again with
6 everything. So, thank everyone very much, I wish everyone a
7 good day. Thank you very much, we're adjourned.

8 All: Thank you, Judge.

9 (Proceedings adjourned at 12:25 p.m.)

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CERTIFICATION

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I certify that the foregoing is a correct transcript from
the electronic sound recording of the proceedings in the
above-entitled matter.

A handwritten signature in dark ink, reading "Sonya M. Ledanski Hyde". The signature is written in a cursive, flowing style.

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: October 11, 2024